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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/626,194

Filing Date: July 24, 2003

Appellant(s): FELLENSTEIN ET AL.

Rudolph O. Siegesmund
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 15 February 2008 appealing from the Office action mailed 07 May 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The amendment after final rejection filed on 23 July 2007 has been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6879994	Matsliach et al.	1-2000
20040081183	Monza et al.	5-2003
6957390	Tamir et al.	11-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsliach et al. (US patent 6879994) in view of Monza et al. (US 20040081183 A1) and in further view of Tamir et al. (US 6957390 B2).

Consider claims 1, 11, and 21. Matsliach et al. discloses a system and method for identifying optimal times for an end user to contact a target user of a messaging system, comprising: an event monitor to detect messaging system events and to record the messaging system events in a database ("Upon detection of a new user event, process 71 continues from step 76 to step 80 wherein user computer 14 determines what type of user event has occurred. If the user has asked to change his/her user profile, process 71 continues to step 80a. The updated information is input and then transmitted to server 10 (step 80a-1). Then the information is stored both locally on user computer 14 and in a user database of server 10 (step 80a-2), after which process 71 returns to step 76." Column 13 lines 45-52); a usage processor to compile statistical usage data from the events in the database ("The information is processed to determine the current "hot" Internet sites or pages at or near real-time, the popular sites on a historical basis, i.e., over the past N days or hours, various usage trends, etc." column 3 lines 40-43); and a usage indicator to display the target user's statistical usage data on an output device ("This information can be presented to users in the form of, e.g., a histogram displayed on the user's screen, and integrated with link maps, directory information, and

other navigation tools." column 3 lines 43-46). However, Matsliach et al. fails to teach the type of data provided by the messaging system or providing information for the best time to contact another user. Monza et al. discloses a messaging system comprising a self learning component that keeps and monitors historical usage data and uses it to profile users of the system. This reads on the claimed "... wherein the statistical usage data is adapted to allow the end user to determine a best time to contact the target user for a messaging session by providing a plurality of data regarding the target user's ... the target user's messages sent and received." ("Part of PE component within engine 112 is a self-learning component. The self-learning component.enables proactive outbound contacts to be initiated using the most optimum media type and contact parameters to ensure the best chance for success of contact and probable response. For example, if a client like a business partner repeatedly does business with center 104 then all of his or her available media types, contact parameters, preferences, rules for etiquette, and normal itinerary, are stored in HDM within facility 114. Also stored in HDM under the same client ID parameters are statistical data regarding hit and miss rates of previous proactive outbound contacts and the result data of those contacts over an extended period of history. Over time, the system "learns" what the most successful proactive contact media types are and when the best times are to initiate the contacts. As more data is compiled more intelligence is gleaned.") paragraph 0068 ("At step 503, if the media type of the interaction is live voice, interactive text-based, or asynchronous messaging, the

interaction content and any results are stored at step 504. At step 505 the business process ensues, meaning that interaction is still ongoing and the purpose of the client has yet to be satisfied. It is noted herein that further routing, re-direction, transfers, and other steps may be part of the process. Further, the entire interaction chain is captured and recorded as it occurs. It is further noted that the end of a process does not necessarily mean the closing interaction of a transaction. The definition of process may include, for example, post-closing operations that still need to be performed.") paragraph 0160). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to incorporate a self learning multimedia communications environment as taught by Monza et al. with a system for processing and presenting internet usage information to facilitate user communications as taught by Matsliach et al. for the purpose of tagging customer preferences. However, Matsliach et al., as modified by Monza et al., fails to teach recording times that users log in and log out of the system or the average time of a logged in session. Tamir et al. discloses a system that logs client specifics comprising average session duration and begin and complete times. This reads on the claimed "... providing a plurality of data regarding the target user's times for signing in and signing out, the target user's average time signed on each day" ("Using the Session Start 304 and Session End 306, the server system can also determine what times the user and application began and completed the client-server session. The server system can thereby determine user-specific statistics including the user session duration and peak time of use, as well as client- specific statistics including client session duration and peak time of use. The server system can

also determine system-wide user and client statistics including the average user session duration, average client session duration, user session peak time of use, and client session peak time of use.") column 9 lines 13-23).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to incorporate logging session times as taught by Tamir et al. with tagging customer preferences as taught by Matsliach et al., as modified by Monza et al., for the purpose of statistical data analysis.

Consider claims 2, 12, and 22. Matsliach et al., as modified by Monza et al., and as further modified by Tamir et al., discloses an instant messaging system ("A variety of different chat or instant-messaging technologies can be used, ..." column 9 lines 30-31).

Consider claims 3, 13, and 23. Matsliach et al., as modified by Monza et al., and as further modified by Tamir et al., discloses an e-mail messaging system ("User demographics: age range (and optionally, the exact age of the user), gender, nickname, user location (state), spoken languages, occupation, zodiac sign, family status, a mood of the user, a co-branded community to which the user belongs and an e-mail address of the user." column 6 lines 49-54).

Consider claims 4, 14, and 24. Matsliach et al., as modified by Monza et al., and as further modified by Tamir et al., discloses an electronic bulletin board system ("According to the present invention, a user can leave one or more "notes" for a particular web page, as if the page contained a virtual bulletin board." column 4 lines 43-45).

Consider claims 5, 15, and 25. Matsliach et al., as modified by Monza et al., and as further modified by Tamir et al., discloses a monitor in which the user has the ability to turn off recording of the user's events ("At step 30, the system continuously monitors whether an active status of the web page currently being viewed changes (e.g. whether the user switches to a new URL or opens a new browser window and views a different page). When the active status of a current page does not change, but the user opens a new browser window, the process continues directly to step 34, discussed below. However, when the active status of the current web page changes, the process first completes step 32 wherein the system toggles the active page timer by, for example, turning off the timer for the previously viewed page and beginning a timing of the access to the newly accessed web page. In the alternative, at step 32, the active page time may simply be turned off if the user closes all open browsers." column 11 lines 4-17).

Consider claims 6, 16, and 26. Matsliach et al., as modified by Monza et al., and as further modified by Tamir et al., discloses a watch list ("In addition, a list of "hot" sites can be generated based on popularity and indexed according to common demographic parameters, such as a user's age, gender, and occupation. Various hot site lists can be generated according to topical category, such as business, sports, gaming, etc." column 6 lines 36-41).

Consider claims 7, 17, and 27. Matsliach et al., as modified by Monza et al., and as further modified by Tamir et al., discloses the event monitor only recording events matching a type included in the watch list ("Real- time hot site information is sent

to users in response to queries. The query can be topic specific or global. For a global "all the net" query, all pages that contain registered users, including those not in the catalog, are scanned to determine the "hottest" pages." column 6 lines 31-46).

Consider claims 8 and 18. Matsliach et al., as modified by Monza et al., and as further modified by Tamir et al., discloses an access list ("Individual users can compile "buddy lists" of other ICQ users and are informed when one of those IDs has logged on or off." column 2 lines 37-39).

Consider claims 9 and 19. Matsliach et al., as modified by Monza et al., and as further modified by Tamir et al., discloses an access list ("Next, server 10 determines whether the updated user information includes additional buddy list members (Step 96). If not, the process 89 continues to step 98 below. If so, process 89 continues to step 97 where server 10 determines the status of the additional users listed in the new buddy list and transmits the information to user computer 14, after which process 89 continues to step 98. At step 98, server 10 transmits a notification to user computer 14 that the updated user parameters were successfully received and stored." column 16 line 13 - column 17 line 4).

Consider claims 10 and 20. Matsliach et al., as modified by Monza et al., and as further modified by Tamir et al., discloses a usage indicator saving the target user's statistical usage in a summary file ("Various other types of information can be returned in accordance with bandwidth considerations, user preferences, etc., such as the number of users which are not in an "invisible" status, the number of invisible users in the page, the number of notes left in the page, the number of users in the site which

are not invisible, and the number of invisible users of the site. The received information is displayed to the user, preferably in a graphical format (step 28), by the client software "column 10 lines 43-51).

(10) Response to Argument

Appellant's arguments: pages 8-12 of the Appeal Brief

A. The claim requires that the event data include a "plurality of data regarding the target user's times for signing in and signing out, the target user's average time signed on each day, and the target user's messages sent and received."

The cited art does not disclose the limitation "record the messaging system events in a database."

The cited art does not disclose recording data regarding an end user in a database.

The cited art does not disclose "a usage processor to compile the target user's statistical usage data from the messaging system events in the database."

B. The cited art does not disclose statistical usage data regarding a "target user."

The cited art does not disclose the limitation "wherein the statistical usage data is adapted to allow the end user to determine a best time to contact the target user for a

messaging session by providing a plurality of data regarding the target user's times for signing in and signing out, the target user's average time signed on each day, and the target user's messages sent and received."

C. The cited art fails to teach recording times that users log in and out of the system or the average time of a logged in session.

Claim 1 recites "a plurality of data regarding the target user's times for signing in and signing out, the target user's average time signed on each day, and the target user's messages sent and received." Claim 1 is directed to data for a messaging system. Claim 1 is not directed to "users" but to data regarding "target users" as opposed to "end users."

Examiner's response:

Matsliach et al. discloses a method for processing and presenting internet usage information to facilitate user communications. In column 3 lines 24-24, Matsliach et al. discloses tracking user internet activity and usage and saving the information to a central server. This is interpreted as a user database. In column 3 lines 48-61, Matsliach et al. discloses a method of an individual user querying a central system to determine other user's activity. This is interpreted as an end user using a database to obtain information about a target user. In column 6 lines 62-64, Matsliach et al. discloses a central server maintaining data about a user's activity during a

predetermined number of days. This is interpreted as event data regarding a user's times signed on each day. In column 7 lines 19-22, Matsliach et al. discloses a Buddy List and a log of users with whom the user has recently communicated. This is interpreted as an end user directed at a target user. In column 7 lines 53-65, Matsliach et al. discloses a method of displaying demographic statistics on a bargraph histogram. This is interpreted as statistical data usage. In column 10 lines 62-67 and column 11 lines 1-3, Matsliach et al. discloses a method of recording start and stop times of a user's internet activity. This is interpreted as event data regarding a user's times for signing in and signing out. In column 13 lines 18-30, Matsliach et al. discloses logging a target user's messages on a server. This is interpreted logging user activity in a database. In column 13 lines 45-52, Matsliach et al. defines server 10 as a database for storing user information.

Monza et al. discloses a method for providing adaptive and proactive interaction management for multiple types of business interactions occurring in a multimedia communications environment. In paragraph 0068, Monza et al. discloses a self-learning component that "learns", through historical data, what the most successful contact media types are and when the best times are to initiate contact. This is interpreted as media types defining the type of data that is provided by a messaging system and the best time to contact a target user. In paragraph 160, Monza et al. discloses a method that stores content interaction between media types. This is interpreted as event data regarding a user's messages sent and received.

Tamir et al. discloses a method for providing dynamic information to a user via a visual display. In column 8 lines 20-34, Tamir et al. discloses a server system that can identify a set of messages that a user will view and records login time of said user. This is interpreted as data regarding a user's messages and data regarding a user's times for signing in. In column 8 lines 43-54, Tamir et al. discloses a method of recording a session-start and a session-end, identifying when a client-server communication occurred. This is interpreted as event data regarding a user's times for signing in and signing out. In column 9 lines 13-23, Tamir et al. discloses a method of analyzing user and client statistics, including average user session duration. This is interpreted as statistical data usage and event data regarding a user's average time signed on. In Claim 5, Tamir et al. discloses a user computer processing data of prior usage history. This is interpreted as a usage processor compiling statistical usage data.

The teachings of Matsliach et al. discloses a method of an individual user querying a central system to determine other user's activity. This is interpreted as an end user using a database to obtain information about a target user. The teachings of Matsliach et al. would have led a person of the ordinary skills in the art to derive "target users" as opposed to "end users."

The teachings of Matsliach et al. discloses a central server maintaining data about a user's activity during a predetermined number of days. This is interpreted as event data regarding a user's times signed on each day. Matsliach et al. discloses a method of recording start and stop times of a user's internet activity. This is interpreted

as event data regarding a user's times for signing in and signing out. Matsliach et al. discloses logging a target user's messages on a server. This is interpreted logging user activity in a database. Monza et al. discloses a method that stores content interaction between media types. This is interpreted as event data regarding a user's messages sent and received. The teachings of Matsliach et al. combined with the teachings of Monza et al. would have led a person of the ordinary skills in the art to derive "plurality of data regarding the target user's times for signing in and signing out, the target user's average time signed on each day, and the target user's messages sent and received."

The teachings of Matsliach et al. discloses logging a target user's messages on a server. This is interpreted logging user activity in a database. The teachings of Matsliach et al. would have led a person of the ordinary skills in the art to derive "record the messaging system events in a database."

The teachings of Monza et al. discloses a method that stores content interaction between media types. This is interpreted as event data regarding a user's messages sent and received. The teachings of Matsliach et al. combined with the teachings of Monza et al. would have led a person of the ordinary skills in the art to derive "recording data regarding an end user in a database."

The teachings of Tamir et al. discloses a user computer processing data of prior usage history. This is interpreted as a usage processor compiling statistical usage data. The teachings of Matsliach et al., combined with the teachings of Monza et al. and Tamir et al., would have led a person of the ordinary skills in the art to derive "a usage

processor to compile the target user's statistical usage data from the messaging system events in the database."

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Mark D Fearer/

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